

## **§ 35.2107**

### **§ 35.2107 Intermunicipal service agreements.**

If the project will serve two or more municipalities, the applicant shall submit the executed intermunicipal agreements, contracts or other legally binding instruments necessary for the financing, building and operation of the proposed treatment works. At a minimum they must include the basis upon which costs are allocated, the formula by which costs are allocated, and the manner in which the cost allocation system will be administered. The Regional Administrator may waive this requirement provided the applicant can demonstrate:

- (a) That such an agreement is already in place; or
- (b) Evidence of historic service relationships for water supply, wastewater or other services between the affected communities regardless of the existence of formal agreements, and
- (c) That the financial strength of the supplier agency is adequate to continue the project, even if one of the proposed customer agencies fails to participate.

(Approved by the Office of Management and Budget under control number 2040-0027)

### **§ 35.2108 Phased or segmented treatment works.**

Grant funding may be awarded for a phase or segment of a treatment works, subject to the limitations of § 35.2123, although that phase or segment does not result in compliance with the enforceable requirements of the Act, provided:

- (a) The grant agreement requires the recipient to make the treatment works of which the phase or segment is a part operational and comply with the enforceable requirements of the Act according to a schedule specified in the grant agreement regardless of whether grant funding is available for the remaining phases and segments; and
- (b) Except in the case of a grant solely for the acquisition of eligible real property, one or more of the following conditions exist:
  - (1) The Federal share of the cost of building the treatment works would require a disproportionate share of the State's annual allotment relative to other needs or would require a major

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portion of the State's annual allotment;

(2) The period to complete the building of the treatment works will cover three years or more;

(3) The treatment works must be phased or segmented to meet the requirements of a Federal or State court order; or

(4) The treatment works is being phased or segmented to build only the less-than-secondary facility pending a final decision on the applicant's request for a secondary treatment requirement waiver under section 301(h) of the Act.

[49 FR 6234, Feb. 17, 1984, as amended at 50 FR 45895, Nov. 4, 1985]

### **§ 35.2109 Step 2=3.**

The Regional Administrator may award a Step 2=3 grant which will provide the Federal share of an allowance under appendix B and the estimated allowable cost of the project only if:

- (a) The population of the applicant municipality is 25,000 or less according to the most recent U.S. Census;
- (b) The total Step 3 building cost is estimated to be \$8 million or less; and
- (c) The project is not for a treatment works phase or segment.

### **§ 35.2110 Access to individual systems.**

Applicants for privately owned individual systems shall provide assurance of access to the systems at all reasonable times for such purposes as inspection, monitoring, building, operation, rehabilitation and replacement.

### **§ 35.2111 Revised water quality standards.**

After December 29, 1984, no grant can be awarded for projects that discharge into stream segments which have not, at least once since December 29, 1981, had their water quality standards reviewed and revised or new standards adopted, as appropriate, under section 303(c) of the Act, unless:

- (a) The State has in good faith submitted such water quality standards and the Regional Administrator has failed to act on them within 120 days of receipt;
- (b) The grant assistance is for the construction of non-discharging land treatment or containment ponds; or